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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,438	09/25/2003	Lars Severinsson	03370-P0057A	5539
24126	7590	04/07/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,438	Applicant(s) SEVERINSSON ET AL.	
	Examiner Douglas C. Butler	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14 and 18-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.


Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-14 and 18-20 are pending with claims 15-17 canceled.
2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

3. Claim Problems:

 (A) Applicants deletion of the last three lines ^{in claim 1} is a substantial broadening of the claims. It appears that although "two code parts" are recited in claim 1, line 4 the structure of at least the generic structure of the "other code part" has been deleted thus confusing the issues as to whether claim 1 is directed to a "code part rotating continuously" by rotation of the adjustment shaft rather than to "two code parts" separate from each other. The phrase "code parts" is unduly broad.

(B) There is no clear antecedent basis in claim 2 for "the code parts not rotating continuously by rotation of the adjustment shaft" of claim 2, lines 1-2 in that claim 1 does not recite that there are "code parts not rotated continuously by the rotation of the adjustment shaft".

(C) There are no clear antecedent bases in claim 3 for "it" of claim 3, line 1 and "the code wheels" of claim 3, lines 2-3 in that claim 1 recites "a code wheel" in claim 1, line 6 rather than "code wheels".

(D) There is no clear antecedent basis in claim 4 for "the code" of claim 4, line 1.

(E) There are no clear antecedent bases in claim 5 for "the signals" of claim 5, line 3; "the actual wear of the lining material of the brake" of claim 5, lines 3-4; "the two or more code parts" of claim 5, line 4 indicating that the claims previously have defined more than a pair of "code parts"; "the same side of the printed circuit board" of claim 5, lines 4-5.

(F) The use of alternative expressions in the claims (e.g. "magnets, by light and ... or by holes or no holes" of claim 4, line 3; "two or more parts" of claim 5, line 4; "detectors, ... sensors or ... switches" of claim 6, lines 1-2; "sliding part and/or ..." of claim 10, line 3, "one or more ... parts" of claim 18, line 3, "one or more" of claim 20, line 3, etc.) renders the claims unclear leading to confusion.

4. Clarification of Record Requested

If applicants intend for claim 1 to include two diverse "code parts", claim 1 should be amended to reflect that intention. Otherwise, applicants should delete the phrase "two code parts" from claim 1 so that an effective examination of the subject matter can be made. It appears to the examiner that the recitation of "two code parts" in claim 1, line 4 is not a positive recitation and that claim 1 is directed to a digital sensor with a "code wheel", which is a very general claiming of the invention. It may be that in deleting the last three lines of claim 1, applicants intended to delete "two code parts".

5. This application contains claims directed to the following patentably distinct species of the claimed invention: Species A: Figs. 1-2;

Species B: Fig. 3;

Species C: Fig. 4;

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Species D: Fig. 5;

Species E: Fig. 6;

Species F: Fig. 7;

Species G: Fig. 8;

Species H: Fig. 9

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 may be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number 703-308-2575.

Butler/vs
March 24, 2005


DOUGLAS C. BUTLER
PRIMARY EXAMINER
3/25/05
AV 3683